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CALIFORNIA SPORTFISHING  
PROTECTION ALLIANCE

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

CALIFORNIA SPORTFISHING  
PROTECTION ALLIANCE,

Plaintiff,

v.

PACIFIC BELL TELEPHONE COMPANY,

Defendant.

CASE NO. 2:21-cv-00073-MCE-JDP

**PLAINTIFF'S STATUS UPDATE AND  
REQUEST FOR STATUS  
CONFERENCE**

1 This Court ordered the parties to file a joint status report by May 19, 2023, and on May  
2 17, 2023, the parties did meet and confer to discuss the permitting status and likely timeline for  
3 removal of the Cables.

4 What Defendant fails to tell the Court in their unilateral update is that the parties had a  
5 disagreement during the meet and confer process for the Joint Statement. This disagreement  
6 turned on whether the permits that have been issued create an absolute ban on removal work from  
7 Memorial Day, May 29, 2023, until mid-September, 2023. Defendant claims the permits create an  
8 absolute ban; Plaintiff's view is that the permits do not create an absolute ban. Agencies retain the  
9 flexibility to allow the removal work to proceed, even after Memorial Day, while the weather is  
10 good and boat ramps are available. During back-and-forth emails last Friday, May 19, 2023, in  
11 preparation for the filing of the Joint Statement, Plaintiff provided Defendant language that  
12 described this disagreement about the flexibility of the permits. Defendant refused to include this  
13 language in the Joint Statement and then unilaterally filed its own update. As a result of this  
14 action, Plaintiff now submits its own update.

15 The Consent Decree provides that the cables must be removed "within ninety (90) days  
16 following receipt of all Authorizations or the Court Entry Date, whichever is later, or as soon  
17 thereafter as reasonably practicable (the "Removal Date")." Defendant's "receipt of all  
18 Authorizations" occurred on April 28, 2023 and under the provisions of the Consent Decree, the  
19 cables must be removed by July 27, 2023.

20 Time, is therefore, of the essence.

21 Plaintiff's position is that it is appropriate to ask State Lands for clarification about  
22 whether flexibility allows for removal between now and July 27 to comply with the 90 day  
23 requirement. The same is true of the permit of the California Department of Fish and Wildlife.  
24 Defendant claims these two permits create absolute prohibitions and, therefore, Defendant will  
25

1 not commence removal operations until mid-September at very best. If these agencies choose to  
2 prohibit removal activities between now and mid-September, then so be it, but it is inaccurate for  
3 AT&T to claim there is an absolute prohibition when that has yet to be determined.

4 AT&T's attempt to postpone all removal activity until mid- September, 2023, creates a  
5 genuine possibility that weather, fire evacuations or other issues, will prevent the removal of the  
6 Cables for yet another year (the Consent Decree was signed in November 2021). Plaintiff would  
7 like to immediately inquire of State Lands and CDFW whether they approve of removal between  
8 the present and July 27, 2023, as is presently required by the Consent Decree.

9  
10 Plaintiff will immediately inform AT&T and the Court about whether the agencies agree  
11 that removal can be done now, when the weather is good and boat ramps, including ramps on  
12 Northshore and Westshore, are available. The largest boat ramp on Lake Tahoe is at Lake Forest  
13 in Tahoe City and is available now. Obexer's, a ramp on the Westshore, nearby where some of the  
14 Cable is lying, is also available now. Plaintiff is glad to work with Defendant so that the Cables  
15 can be removed promptly. It is likely the agencies are supportive too.

16  
17 Plaintiff asks the Court for 10 days, until June 1, 2023, to inquire of State Lands and the  
18 CDFW if the permits impose an absolute ban, or whether flexibility allows for removal to  
19 proceed in compliance with the 90-day deadline in the Consent Decree, and to report their  
20 responses to the Court, and to Defendant. Alternatively, Plaintiff requests a status conference at  
21 the Court's earliest convenience.

22  
23 DATED: May 22, 2023

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24  
25 By:   
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28 CALIFORNIA SPORTFISHING  
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